

Los Rios Community College District

**PURCHASE ORDER NO 0001122954
CHANGE ORDER**

Purchasing: (916)568-3071
LRCCDpurchase@losrios.edu

Accounting Ops: (916)568-3065 * FAX (916) 286-3636
Acctg-ops@losrios.edu

PLEASE SEE TERMS AND CONDITIONS APPENDED TO THIS PO

Date	Revision	Page
11/08/2022	1 - 12/13/2022	1
Payment Terms	Freight Terms	Ship Via
NET 30	Shipping Point	Best Method
Reference:	Location / Dept	
1038194 MESAC HANEYB	04CYPH144	

Supplier: 0000041374
ACUE
745 FIFTH AVE # 500
NEW YORK NY 10151

Phone: (866) 628-2283

email: accounting@acue.org

Ship To: FOLSOM LAKE COLLEGE
RECEIVING
10 COLLEGE PARKWAY
FOLSOM CA 95630
United States

Bill To: LRCCD
Invoice to: acctg-ops@losrios.edu
1919 Spanos Court
Sacramento CA 95825-3981
United States

Tax Exempt? N

Line-Sch	Item/Description	Quantity UOM	PO Price	Extended Amt	Due Date
1- 1	INCLUSIVE TEACHING FOR EQUITABLE LEARNING- ITEL ADD-ON COHORT FOR SPRING 2023	1.00 JOB	15,000.00	15,000.00	12/31/2023
2- 1	ITEL MICROCREDENTIAL FACILITATION FOR AN ITEL COHORT LAUNCHING SPRING 2023	1.00 JOB	3,000.00	3,000.00	12/31/2023

QUOTE# 332 _Dated 05-09-22_ Signed JR 11-07-22

ITEL- Add-on Cohort for Spring 2023
Master Service Agreement dated 11/15/2018, extended to 12/31/2023

12-13-22 PER T. ZABEGALIN ADD LN2 PER QUOTE#458 . NEW PO TOTAL \$18,000.00 (BH)

Sub Total Amount	18,000.00
Sales Tax Amount	0.00
Total PO Amount	18,000.00

BU	Acct	Fd	Org	Prog	Sub	Proj	Amount	BYear
GENFD	5100	12	FL.VI.VTEA	49000	00000	314B	18,000.00	2023

0001038194MCKECHND16-AUG-2022

All shipments, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

Authorized Signature

Kim Carrillo

Notice to vendor: You are responsible for delivering good and delivery documents to the Receiving Department at the site. Failure to so do will delay payment processing. Vendor is responsible for obtaining verification of delivery by authorized Receiving Room personnel. Receipt of good by other parties and failure to obtain authorized signatures may also delay payment. NOTE: PAYMENT TERMS NET 30
MATERIAL SAFETY DATA SHEETS (MSDS) must be provided with the delivery of product as required by law.

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Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
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Verification of this purchase order can be made using the Los Rios Community College District web site listed below. If you have any questions, please contact the Purchasing Office at email address: LRCCDpurchase@losrios.com.

<https://psreports.losrios.edu/PurchaseOrderInformation.asp>

All shipments, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

Authorized Signature

AUTHORIZED SIGNATURE ON PO TOTAL PAGE

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LOS RIOS COMMUNITY COLLEGE DISTRICT

American River College • Cosumnes River College • Folsom Lake College • Sacramento City College

PURCHASE ORDER TERMS AND CONDITIONS

1. **APPLICABLE LAW:** The contract resulting from this order shall be governed by the laws of the State of California.
2. **COMPLETION OF ORDERS:** LRCCD reserves the right to withhold payment until order is completed.
3. **DISCOUNTS:** Please show cash payment discount offered on your invoice in connection with any discount offered, time will be computed from date of delivery of the supplies or equipment, or from date correct invoices are received in the office specified by LRCCD if the latter date is later than the date of delivery. Payment is deemed to be made for the purpose of earning discount, on the date payment is mailed or on behalf of LRCCD.
4. **INVOICES:** Invoices shall be prepared and submitted in duplicate unless otherwise specified. Invoices shall contain Purchase order number, date, description of items, sizes and quantities, unit prices, extended totals, place and date of delivery. Invoices or vouchers not on printed bill heads shall be signed by the CONTRACTOR or person furnishing the supplies or services. Every invoice shall be properly itemized. If LRCCD has not received billing for product or services within a one year period LRCCD will not be held responsible for satisfying the debt.
5. **CHANGES:** No change or modification in terms, quantities, or specifications may be made without express authorization in writing from the LRCCD Purchasing Office and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. If unit cost of any item exceeds the amount shown by 10% or \$250.00 whichever is less do not ship. Contact LRCCD Purchasing at the phone number provided.
6. **BILL OF LADING:** If Bill of Lading is applicable to this order, send originals to "Ship to" address and duplicate Bill of Lading with invoices to "Bill to" address. All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show purchase order number. If factory shipment, advise factory to comply.
7. **TRANSPORTATION CHARGES:** Invoices for prepaid transportation charges must be supported by original receipted expense bills.
8. **FOB POINT AND FREIGHT CHARGES:** Unless otherwise specified on this order, all items shall be delivered FOB Destination. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, or for any other purpose will be paid by LRCCD unless expressly included and itemized in the order. Unless otherwise shown, on "FOB Shipping Point" transactions, CONTRACTOR shall arrange for lowest cost transportation, prepay and add freight to invoice and furnish supporting freight bills if the amount exceeds \$50.00. On "FOB Shipping Point" transactions, should any shipments under this purchase order be received by LRCCD in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, CONTRACTOR on request of LRCCD shall at CONTRACTOR's own expense assist LRCCD in establishing carrier liability by supplying evidence that the equipment and/or materials was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions. Shipments that are California intrastate in nature and where freight is to be borne by LRCCD shall be tendered to carriers with written instructions that rate and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.
9. **PATENT INDEMNITY:** The CONTRACTOR shall hold LRCCD, its officers, agents and employees harmless from alleged liability of any nature or kind, including costs and attorney fees and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract or purchase order.
10. **TAXES:** Certain articles sold to LRCCD are exempt from certain Federal excise taxes. LRCCD will reimburse the CONTRACTOR for, or pay directly, all California State and local sales and use taxes applicable to this purchase.
11. **EQUAL OPPORTUNITY EMPLOYER:** The acceptance of this purchase order by a supplier of goods and services is a certification that such supplier complies with all provisions of executive order 11246 and is an equal opportunity employer.
12. **GENERAL SAFETY ORDERS:** All materials, supplies and services sold to LRCCD shall conform to the general safety orders of the State of California. All materials, except as otherwise specified, must be new and of the best quality of their respective kinds.
13. **INDEMNIFICATION:** CONTRACTOR shall indemnify, defend and hold harmless LRCCD, its trustees, officers, agents, employees and volunteers, from any and all claims, demands, suits, causes of action, damages, penalties, breaches of this agreement, infringement of patent rights, costs, expenses, violations of employee occupational health and safety laws, attorney fees, losses or liability, property damage, personal injuries to or death of per arising out of, alleged to have arisen out of, or relating in any way to CONTRACTOR's work to be performed under this agreement, except if caused solely by the negligence of LRCCD.
14. **TERMINATION:** LRCCD may terminate this agreement and be relieved of the payment of any consideration to CONTRACTOR should CONTRACTOR fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination LRCCD may proceed with the work in any manner deemed proper by LRCCD. The cost to LRCCD shall be deducted from any sum due the CONTRACTOR under this agreement and the balance if any, shall be paid the CONTRACTOR upon demand.
15. **ASSIGNMENT:** Without the written consent of LRCCD, this agreement is not assignable by CONTRACTOR either in whole or in part.
16. **PUBLIC WORKS PROJECTS:** CONTRACTOR must comply with Public Contract Code.
17. **CA LABOR CODE:** Pursuant to Section 1700, and following, the CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the Business Office of the Los Rios Community College District, 1919 Spanos Court, Sacramento, CA 95825. Those copies shall be made available to any interested party upon request. The CONTRACTOR shall forfeit, as penalty to the LRCCD, Fifty Dollars (\$50.00) for each calendar day or portion thereof, for each workman paid less than the stipulated prevailing rates for any work done under the contract by him/her or by any subcontractor under him, in violation of the provisions of such Labor Code.
18. **NOTICE:** Your employees may be exposed to hazardous substances during the course of their work while on LRCCD property. For additional information on the hazardous substances that your employees may be exposed to contact LRCCD General Services Department at (916) 568-3048.
19. **INSURANCE:** CONTRACTOR shall, at all times, maintain in full force and effect the following insurance: Workers' Compensation, Commercial General Liability, Auto Liability, and Professional Liability, if licensed professional. Policy limits for each shall be at least \$1,000,000 AND \$1M, \$2M, or \$3M AGGREGATE as prescribed by DISTRICT requirements for bodily injury, personal injury and property damage. Any combination of General Liability and Excess Coverage can be combined to meet the Aggregate. LRCCD shall be named as an additional insured on CONTRACTOR's policies. The CONTRACTOR shall provide a certificate of insurance and required endorsements to comply with this section at least 15 days prior to commencement of work under this contract. The certificate shall state that LRCCD will be given 30 days notice of any material change or cancellation in coverage. LRCCD insurance requirements can be viewed on the following website www.losrios.edu/purchasing.
20. **DISQUALIFIED EMPLOYEES:** CONTRACTOR shall ensure that persons who perform services on LRCCD property have not been convicted of any felony, or any controlled substance offense or any sex offense as defined by Education Code section 87008-87010. If LRCCD determines that any person employed by CONTRACTOR to work on LRCCD property is incompetent, unfaithful, intemperate, disorderly, abusive or is otherwise unsatisfactory, CONTRACTOR shall cause that employee to be removed from working on LRCCD property immediately, and that person shall not be employed again on LRCCD property.
21. **WORK AUTHORIZATION:** Prior to LRCCD's acceptance of this Agreement, CONTRACTOR's who are not U.S. citizens must provide verification of (a) work authorization status from the appropriate U.S. Department of State; (b) a copy of their U.S. visa; (c) the number of days present in the U.S.; and (d) tax treaty status. LRCCD shall not make any payments to CONTRACTOR unless CONTRACTOR holds the appropriate U.S. visa. CONTRACTOR is responsible for ensuring they are in possession of the appropriate visa.
22. **WARRANTY:** CONTRACTOR expressly warrants that all materials, goods, equipment, services, and/or labor shall conform to the requirements set forth or incorporated into this order and any applicable industry standards or requirements, shall be merchantable and free from defects in workmanship, materials and/ or design (including latent defects), and shall perform as specified. CONTRACTOR further warrants that all materials, goods, equipment, services, and/or labor will be fit and sufficient for the particular purposes intended by LRCCD. Unless agreed upon otherwise between LRCCD and CONTRACTOR, the warranty period shall be the longer of: (a) any express warranty included in this service agreement; (b) one year after the materials, goods, equipment, services, and/or labor are accepted by LRCCD; or (c) any warranty period provided under any applicable California law. CONTRACTOR further represents and warrants that any software/ hardware/ communications system/ equipment provided under this Agreement (collectively "technology") adheres to the standards and/or specifications as may be set forth in the Section 508 of the Rehabilitation Act of 1973 standards guide and is fully compliant with WCAG 2.0 AA standards for accessibility and compliant with any applicable FCC regulations. If portions of the technology or user experience are alleged to be non-compliant or non-accessible, LRCCD will provide CONTRACTOR with notice of such allegation and CONTRACTOR shall use its best efforts to make the technology compliant and accessible. CONTRACTOR shall indemnify, defend, and hold harmless LRCCD from and against any and all claims, allegations, liabilities, damages, penalties, fees, costs (including but not limited to reasonable attorneys' fees), arising out of or related to allegations the technology is not accessible.
23. **CERTIFICATION:** CONTRACTOR warrants that it is not debarred or suspended, proposed for debarment or declared ineligible for award of contracts by any Federal, State or local Agency.

Requisition

Supplier: ACUE
 745 FIFTH AVE # 500
 NEW YORK NY 10151
 United States

0000041374

Phone: (866) 628-2283
email: accounting@acue.org

Ship To: RECEIVING
 10 COLLEGE PARKWAY
 FOLSOM CA 95630-6798

Business Unit:		GENFD	OPEN
Req ID:	Date	Page	
0001038194	08/09/2022	1	
Requisition Name: ACUE ITEL-CM			
Requester Colleen Mesa			
Requester Signature			
Buyer: Brenda Haney			
Approved:			
Entered By: MESAC 09-AUG-2022			

Line-Schd	Description	Quantity	UOM	Price	Extended Amt	Due Date
1-1	INCLUSIVE TEACHING FOR EQUITABLE LEARNING- ITEL ADD-ON COHORT FOR SPRING 2023	1	JOB	15,000.00	15,000.00	

15,000.00 Sub-total
0.00 Est. tax

Total Requisition Amount: 15,000.00

ITEL- add-on cohort for Spring 2023
 Master Service Agreement dated 11/15/2018, extended to 12/31/2023

Perkins checklist

<u>BU</u>	<u>Acct</u>	<u>Fd</u>	<u>Org</u>	<u>Prog</u>	<u>Sub</u>	<u>Proj</u>	<u>Amount</u>
GENFD	5100	12	FL.VI.VTEA	49000	00000	314B	15,000.00

Purchases Charged to Catagorical Programs, Grants or Special Project.

Program Name: Perkins V
 Project Grant: 314B
 Program Director: Chris Morris/Greg McCormac
 Program Goal: Professional Development permissive 135c-#17

Approval Signature	Approval Signature	Approval Signature
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ACUE
 745 Fifth Avenue #500
 New York, NY 10151
 Tel. 866.628.ACUE
accounting@acue.org



ACUE

Student Success
 Through Exceptional
 Teaching

Quote # 332
 5/9/2022

Bill To

Folsom Lake College
 10 College Parkway
 Folsom CA 95630
 United States

Expires: 8/31/2022

Partnership Director	Reference	Billing Schedule	Memo
Paul Grillos	Master Service Agreement Dated 11/15/2018, extended to 12/31/2023	100% due upon signing, Net 30	

Qty	Item	Rate	Amount
1	Inclusive Teaching for Equitable Learning ITEL add-on cohort for Spring 2023	\$15,000.00	\$15,000.00

Partner Responsibilities

Contact: Appoint a principal point of contact to collaborate with ACUE and lead the program;

Staff: Provide up to two (2) facilitators per cohort; and

Recruit: Recruit faculty and provide invitee information to ACUE.

Services and Deliverables (Micro)

Host: Deploy cohorts of up to 33 faculty;

Recognize: Award digital badges;

Contact: Designate an academic director to coordinate activities;

Onboard: Onboard and support course facilitator(s);

Launch: Conduct or support course launch sessions;

Support: Provide technical support to course-takers;

Score: Staff a national reader to score reflections;

Report: Deliver a summary report; and

Resource: Support communications efforts to recruit course-takers and promote a culture of instructional excellence.

Subtotal	\$15,000.00
Tax Total (0%)	\$0.00
Total	\$15,000.00

The below signatory is an authorized representative of Folsom Lake College and agrees to the proposed services and budget.

Signed: _____

Name and Title: _____

Date: _____



ACUE

Student Success
Through Exceptional
Teaching

May 9, 2022

Folsom Lake College
10 College Parkway
Folsom CA 95630
United States

To Whom It May Concern:

ACUE welcomes the opportunity to work with your institution to further our shared goals. Our mission is *to ensure student success through quality instruction*. In service of our mission, we work with colleges and universities to plan, design and implement high-quality faculty professional development and credentialing programs that result in the only nationally recognized teaching credential.

ACUE's procurement process involves two primary contracting documents:

- **Master Services Agreement**, which defines the legal terms that govern our work; and
- **Quote**, which sets forth the products, services, pricing and billing schedule of a purchase.

We request signatures from a duly authorized individual on both the Master Services Agreement and Quote for the first order with your institution, and typically only the Quote for each order thereafter. Digital signatures are acceptable. It is ACUE's policy to require a complete set of contracting documents at least two weeks prior to the start of a program to guarantee a start date.

If additional documentation is required in support of the procurement process, contact your Partnership Director or email accounting@acue.org. We are pleased to be working together to impact student success at your institution.

Respectfully,

Doug Saidenberg
Chief Financial Officer, ACUE

Master Services Agreement for Educational Software and Related Services

This Master Services Agreement (the "Agreement") is entered into by and between EdCERT, LLC d/b/a Association of College and University Educators ("ACUE"), a Delaware limited liability company having a main office at 85 Broad Street, 17th Floor, New York, NY 10004 and Los Rios Community College district o/b/o American River College ("ARC"). ARC is a two-year community college with a main office located at 4700 College Oak Drive, Sacramento, CA 95841. ACUE and ARC shall be referred to collectively herein as the "Parties."

WHEREAS, ACUE, in collaboration with the American Council on Education (ACE), supports colleges and universities to meet their goals for student success through a scalable program of faculty development and credentialing; and

WHEREAS, ARC is a two-year community college within the Los Rios Community College District with a mission to provide an academically rich, inclusive environment that inspires critical thinking, learning and achievement, and responsible participation in the community; and

WHEREAS, ACUE and ARC recognize that quality instruction leads to stronger student outcomes; and

WHEREAS, ACUE and ARC wish to formalize a relationship to implement a faculty development program to meaningfully improve student outcomes;

NOW, THEREFORE, the Parties agree as follows:

1. USE RIGHTS; RESTRICTIONS

- 1.1 Services to be Provided. ACUE shall provide services to ARC during the Term (as defined in Section 6) as set forth in order forms to this Agreement and in accordance with the terms and conditions hereof (the "Services"). ACUE shall have the right to use its employees and independent contractors to perform the Services. On the effective date set forth in order forms to this Agreement, ARC shall provide ACUE with all information, to the extent such information is available, necessary to provide the Services. Additionally, upon ACUE's request from time-to-time, to the extent such information is available, ARC shall provide ACUE with all materials and information and access to its premises that is reasonably necessary to provide the Services. ACUE shall be excused from any delay to deliver the Services to the extent that such delay occurs as a result of failure or untimely performance by ARC. ACUE and ARC may enter into multiple order forms to this agreement as may be advisable and necessary to clarify mutual responsibilities as agreed to between the Parties.
- 1.2 Access to Services. Subject to the terms and conditions of this Agreement, including ARC's payment obligations hereunder, ACUE hereby grants to ARC a non-exclusive right to access and use the Services during the Term solely for ARC's bona fide internal business purposes in the ordinary course of business; provided that ARC acknowledges that ACUE's faculty development program (the "Program") will not be available to ARC or Authorized Users prior to the applicable Program Start Date set forth in one or more order forms to this Agreement. Portions of the Services are provided only to Authorized Users (as defined in Section 1.5) who have received a password permitting them to access such Services through an ACUE website (the "Restricted Website Services"). During the Term, Authorized Users shall have the right to access and use the Restricted Website Services for the period specified in the order form (the "Access Period").
- 1.3 Company Content; Downloadable Company Content. During the Access Period, ACUE shall make available to ARC and all Authorized Users through the Services certain content and materials ("Company Content") that are owned by or licensed to ACUE. For any Company Content that ACUE identifies as being available for ARC and Authorized Users to access, print or download and store as part of the Services ("Downloadable

Company Content”), ARC and Authorized Users shall have the right to print or download copies of such Downloadable Company Content during the Access Period; provided, that (i) the Downloadable Company Content is not modified, edited, or taken out of context in any way, (ii) all copyright and other proprietary notices are kept intact, (iii) the phrase “Used with permission of ACUE” is used when displaying or otherwise using such Downloadable Company Content, (iv) the Downloadable Company Content may be requested by the Company to be returned or destroyed in accordance with Section 6.3 hereof upon the expiration or termination of this Agreement and (v) the Company Content and the Downloadable Company Content is used by ARC solely in connection with the Services provided to ARC pursuant to this Agreement.

- 1.4 **Restrictions.** Except as expressly set forth in this Agreement, the rights and licenses herein are granted subject to the following restrictions:

ARC shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, or distribute to third parties, or time share or otherwise commercially exploit or make the Services available to any third party, other than as expressly permitted by this Agreement; (ii) copy, edit, reproduce, modify, distribute, transmit, sell, display, perform, license, sublicense, make translations or other derivative works of, or otherwise use, take out of context, or exploit any Company Content for any purpose not authorized in this Agreement without the express prior written consent of ACUE or the respective licensors of the Company Content; (iii) remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services or Company Content; (iv) use the Services to process data on behalf of third parties; (v) knowingly interfere with or disrupt the integrity or performance of the Services; (vi) attempt to gain unauthorized access to the Services, or to modify, translate, decompile, disassemble, use reverse engineering or otherwise attempt to derive the source code for the computer systems and other technology that operate the Services or otherwise tamper with security components, usage rules or other protective measures applicable to the Services, Company Content or Customer Content (as defined in Section 1.7); or (vii) knowingly use the Services, including the Restricted Website Services, to store or transmit infringing, libelous, or otherwise unlawful or tortious content or material, or to store or transmit content or material in violation of any rights of any third party.

- 1.5 **Authorized Users.** “Authorized Users” shall mean the Course-takers defined and identified in order forms to this Agreement and personnel of ARC responsible for monitoring and administering the Program (including any internal technical support personnel), who are authorized to access the Services using a user identifier and password provided to ARC by ACUE. ARC is fully responsible for any acts or omissions of its Authorized Users in accessing and using the Services and any Company Content and will ensure that ARC and all Authorized Users comply with the Agreement, as well as all laws and regulations that apply to ARC’s and its Authorized Users’ access and use of the Services and the Company Content. ARC shall not permit any person or entity other than Authorized Users to access the Services or the Company Content (except for access and use reasonably on behalf of an Authorized User and, notwithstanding anything to the contrary, any such access and use shall not constitute a breach of this Agreement), shall use commercially reasonable efforts to prevent unauthorized access to or use of the Restricted Website Services and to prevent unauthorized downloading or use of any Company Content (including any Downloadable Content), and shall provide ACUE prompt notice of any such unauthorized access, downloading, or use.

- 1.6 **Reservation of Rights.** Subject only to the rights expressly granted to ARC under this Agreement, as between ACUE and ARC (and ARC’s Authorized Users) all right, title, and interest in and to the Services and the Company Content (for clarity, excluding Customer Content) will remain with and belong solely and exclusively to ACUE.

- 1.7 **Customer Content.** ARC, and not ACUE, shall be responsible for the content, text, and other materials posted on or through the Service by Authorized Users, employees, and other representatives of ARC, and any persons authorized by ARC to use an Authorized User’s user identifier and password, and any content provided to ACUE by ARC for inclusion in the Services (including any information relating to ARC’s procedures) (collectively, “Customer Content”). ARC will acquire the necessary approvals, consents, and

license rights needed to provide the Customer Content to ACUE. Subject to ACUE's confidentiality obligations in Section 2, ARC hereby grants to ACUE, a worldwide, sub-licensable, royalty-free, perpetual, irrevocable, non-exclusive license to use Customer Content to provide the Services and to create and exercise its rights with respect to Analytics Data (as defined below).

- 1.8 Analytics Data. ACUE may create, use, distribute, and otherwise make use of Analytics Data in any manner and for any purpose, all of which will be owned by and shall be the property of ACUE. "Analytics Data" means aggregated data derived from the operation or use of the Services, including data elements derived from Customer Content, and any conclusions, reports, or other data resulting from analysis of such data.

2. CONFIDENTIALITY

As used herein, "Confidential Information" means, any and all information or data, regardless of whether it is in tangible form, disclosed or otherwise made available in connection with this Agreement by either Party (the "Disclosing Party") to the other Party (the "Receiving Party"), that the Disclosing Party has either marked as confidential or proprietary, has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the Receiving Party, or that would reasonably be expected to be confidential under the circumstances; provided, however, that in any event ACUE's Confidential Information shall include the features and functions of ACUE's products and services, and ARC's Confidential Information shall include Customer Content. Without restricting or otherwise limiting the exercise by a Party of the rights and licenses expressly granted to it under this Agreement, ACUE may disclose the terms of this Agreement to existing and potential investors, lenders and acquirers and the legal or financial advisors of the foregoing, as well as ACUE's employees, agents and contractors assisting ACUE with providing the Services or exercising ACUE's rights under this Agreement, in each case, under confidentiality terms substantially similar to those set forth in this Agreement. The obligations in this Section 2 are not applicable to information the Receiving Party can show: (i) is or becomes generally known to the public by any means other than a violation of this Agreement by the Receiving Party; (ii) is information previously known to the Receiving Party; (iii) is information independently developed by or for the Receiving Party; or (iv) is required by law to be released.

3. REPRESENTATIONS, WARRANTIES, AND EXCLUSIONS

- 3.1 Representations and Warranties. ACUE represents and warrants to ARC that ACUE shall provide the Services in a professional and workmanlike manner. Each Party represents and warrants to the other Party that such Party has the required rights, power, and authority to enter into this Agreement and to grant all rights, authority, and licenses granted hereunder, and that it will perform its obligations under this Agreement in a manner that complies with applicable laws, rules and regulations.

- 3.2 Exclusions. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES AND COMPANY CONTENT ARE PROVIDED WITHOUT ANY WARRANTY OF ANY KIND AND ACUE AND ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, PARTNERS AND THIRD PARTY LICENSORS DO NOT MAKE AND TO THE MAXIMUM EXTENT OF THE LAW EXPRESSLY DISCLAIM ANY AND ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITATION OF THE FOREGOING, ARC ACKNOWLEDGES THAT ACUE DOES NOT WARRANT THAT THE SERVICES WILL BE PROVIDED IN AN UNINTERRUPTED, SECURE, OR ERROR-FREE FASHION AT ALL TIMES. ARC MAY NOT MAKE ANY WARRANTY OR REPRESENTATION ON BEHALF OF ACUE TO ANY AUTHORIZED USERS.

4. INTELLECTUAL PROPERTY INDEMNIFICATION

ACUE agrees to indemnify, defend, and hold ARC harmless from and against third-party claims brought against ARC that the Services infringe a United States patent, copyright, or trademark. ACUE's obligation in this Section 4 is expressly conditioned upon: (i) ACUE being notified promptly in writing by ARC of any such claim; (ii) ACUE having sole control of the defense or settlement of such claim, and ARC not making any compromise, admission of liability or settlement or taking any other action impairing the defense of such claim without ACUE's prior written approval; (iii) ARC cooperating with ACUE in all reasonable ways to facilitate the settlement or defense of such claim; and (iv) such claim not arising from ARC's or any Authorized User's modifications, from ACUE's compliance with ARC's designs, specifications or instructions, Customer Content, or from combination, operation or use of Services with other data, services, products or equipment provided by ARC or others, or from ARC's use of such Services other than in accordance with the Agreement. If use of the Services by ARC has become the subject of an infringement claim or ACUE believes such an infringement claim is reasonably likely, ACUE may, at its sole option and expense, (a) use commercially reasonable efforts to procure the right for ARC to continue using the infringing Services or (b) replace or modify the same so that it becomes non-infringing; provided, however, that if neither of the foregoing options is commercially feasible, either Party may terminate this Agreement immediately by providing written notice thereof to the other Party. If this Agreement is so terminated, ARC's exclusive remedy and ACUE's entire liability shall be direct damages in an amount not to exceed that portion of the fees that corresponds to such infringing Services and that have actually been paid by ARC.

THIS SECTION 4 STATES ACUE'S ENTIRE OBLIGATION TO ARC AND ITS AUTHORIZED USERS WITH RESPECT TO ANY INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS BROUGHT BY ANY THIRD PARTY.

5. LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING FROM BREACH OF SECTION 2 (CONFIDENTIALITY), THE TOTAL AGGREGATE LIABILITY OF ACUE AND ANY THIRD PARTIES INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES (THE "ACUE PARTIES"), COLLECTIVELY, RELATING TO THIS AGREEMENT AND THE SUBJECT MATTER HEREOF, SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY ARC TO ACUE IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT, ACT OR OMISSION GIVING RISE TO SUCH DAMAGES. RECOVERY OF ACTUAL AND RECOVERABLE DIRECT DAMAGES, IF ANY, NOT TO EXCEED SUCH AMOUNT SHALL BE ARC'S SOLE AND EXCLUSIVE REMEDY. NEITHER THE ACUE PARTIES NOR ARC SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS OR LOST SALES OR BUSINESS, EVEN IF SUCH ACUE PARTY OR ARC IS ADVISED, KNEW OF, OR SHOULD HAVE KNOWN THE POSSIBILITY OF SUCH DAMAGES.

6. TERM, TERMINATION

- 6.1 Term. The "Term" shall commence on the Effective Date, and unless earlier terminated as described below, shall continue through December 31, 2019 unless extended by mutual written agreement of the Parties or terminated pursuant to the terms of this Agreement.
- 6.2 Termination for Cause. Each Party may terminate this Agreement, without liability, obligation, or penalty of any kind, upon written notice in the event the other Party commits any material breach of this Agreement and fails to cure such breach within thirty (30) days after written notice of such breach.
- 6.3 Obligations on Termination. Upon termination or expiration of this Agreement, except as expressly provided hereunder, all rights granted hereunder and all obligations of ACUE to provide Services shall immediately terminate and the Parties shall (in each Party's sole discretion) return promptly or destroy (and, if applicable, confirm such destruction in writing to the other Party) all tangible material embodying the Confidential Information of the other Party, except for any archived copies automatically created in the ordinary course of the Party's document management systems (it being understood that such archived copies shall still be

treated as Confidential Information hereunder and subject to the terms of this Agreement). The Parties agree that any fee(s) paid in connection with an order form under this Agreement are non-refundable if ACUE has performed any service(s) under such order form.

- 6.4 Survival. Termination of this Agreement or expiration of the Term shall not relieve ARC from paying all fees (to the extent applicable) accruing prior to termination.

7. GENERAL

- 7.1 Use of Images. ARC grants ACUE permission to use the ARC name and/or images (i.e., logos) and those of participating campuses for the purposes of advertising and/or promoting ACUE (including through recognition on ACUE's website and/or marketing materials), or, subject to prior written approval by ARC, for other purposes deemed appropriate by ACUE in its reasonable discretion, except to the extent expressly prohibited by law.
- 7.2 Force Majeure. Neither Party shall be deemed in breach hereunder for any cessation, interruption, or delay in the performance of its obligations to the extent due to causes beyond its reasonable control, including, without limitation, earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, or war (whether or not officially declared), or any change in or the adoption of any law, regulation, judgment, or decree (each a "Force Majeure Event"); provided that financial inability in and of itself shall not be a Force Majeure Event. In such event, the Party whose performance has ceased, or been interrupted or delayed, shall, as quickly as practicable under the circumstances, notify the other Party by telephone (to be confirmed in writing within five (5) business days of the inception of such delay) and describe at a reasonable level of detail the circumstances of such Force Majeure Event and make commercially reasonable efforts to perform notwithstanding the Force Majeure Event. In the event ACUE is the affected Party and its performance has not been fully resumed within ten (10) days after the first occurrence of the Force Majeure Event, ARC may terminate this Agreement immediately upon written notice to ACUE.
- 7.3 Compliance with Laws. In performing the services and other obligations to be performed hereunder, the Parties shall comply with all applicable federal, state, and local laws, rules, and regulations related to the performance of their duties and exercise of their rights hereunder.
- 7.4 No Assignment. ARC may not assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without ACUE's express prior written consent. ACUE may assign or transfer this Agreement, in whole or in part, without restriction, provided that such assignment or transfer (i) is to an affiliate of ACUE, (ii) arises by operation of law, or (iii) occurs in connection with a merger, stock sale, or the sale, transfer, or other disposition of all or substantially all of ACUE's assets pertaining to the Services or another similar transaction. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, and the Parties' respective successors and permitted assigns. Any attempt by either Party to assign or transfer any of the rights, duties or obligations of this Agreement in violation of the foregoing shall be null and void.
- 7.5 Amendment; Waiver. This Agreement may not be amended or modified, in whole or part, except by a writing signed by a duly authorized representative of each Party. Failure or delay by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.
- 7.6 Relationship. Nothing in this Agreement shall be construed to place the Parties hereto in an agency, employment, franchise, joint venture, or partnership relationship. Neither Party will have the authority to obligate or bind the other in any manner, and nothing herein shall give rise or is intended to give rise to any

rights of any kind to any third parties. For all purposes under this Agreement, ACUE shall be and act as an independent contractor of ARC.

7.7 **Severability.** If any provision of this Agreement is found to be unenforceable, then such provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed will continue in effect, to the extent consistent with the intent of the Parties as of the Effective Date.

7.8 **Counterparts.** This Agreement may be executed and delivered in several counterparts, each of which together shall be deemed an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

7.9 **Governing Law, Jurisdiction.** All disputes, claims or controversies arising out of this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its rules of conflict of laws. Each of the Parties hereto hereby irrevocably and unconditionally consents to submit to the sole and exclusive jurisdiction of the courts of the State of California for any litigation between the Parties arising out of or relating to this Agreement.

7.10 **Notices.** All notices under or related to this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when: (i) delivered personally; (ii) sent by confirmed facsimile; (iii) three (3) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. Notices shall be sent to:

If to ACUE	If to ARC
ACUE Attn: General Counsel 85 Broad Street 17th Floor New York, NY 10004	Department General Services Los Rios Community College District 1919 Spanos Court Sacramento, CA 95825

7.11 **Taxes.** ARC shall pay all (or shall reimburse ACUE if ACUE pays any) taxes, customs, duties or assessments (exclusive of taxes based on the net income of ACUE), however designated, including, but not limited to, excise, sales and use taxes now or hereafter imposed under the authority of any federal, state or local taxing jurisdiction with respect to this Agreement or the Company Content or Services provided hereunder. If ARC claims an exemption from any taxes, then (i) ARC shall provide to ACUE appropriate evidence of such exemption, (ii) ACUE shall not charge or pay tax from which ARC is exempt, but (iii) ARC shall be responsible for any taxes that should have been charged and paid, and will promptly reimburse ACUE for any such amounts incurred by ACUE.

7.12 **Entire Agreement.** This Agreement, together with any order forms to this Agreement, constitutes the entire agreement between the Parties. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding the subject matter contained herein, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments, or quotations. In the event of a conflict between the Agreement and the Terms of Service posted on the ACUE website used in connection with delivery of the Services, then this Agreement shall prevail to the extent necessary to resolve such conflict.


7.13 **Cumulative Remedies.** Each Party retains all rights not expressly granted hereunder and, subject to the terms hereof, any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not

exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy available under this Agreement or otherwise.

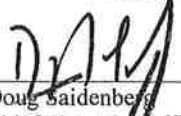
7.14 **Effective Date.** This Agreement shall be effective upon its full execution by both Parties, and the effective date of this Agreement shall be the last date entered in the signature lines below (the "Effective Date").

IN WITNESS WHEREOF, the Parties' authorized signatories have duly executed this Agreement as of the dates indicated below.

LOS RIOS COMMUNITY COLLEGE DISTRICT O/B/O AMERICAN RIVER COLLEGE

By: 
Name: _____
Title: _____
Date: _____
Anita Singh
Director, General Services
Los Rios Community College District

EdCERT, LLC d/b/a ASSOCIATION OF COLLEGE AND UNIVERSITY EDUCATORS

By: 
Name: Doug Saldenberg
Title: Chief Financial Officer
Date: 11/15/2018